Appl. No. 09/924,785
Amdt. dated Jan. 21, 2004
Reply to Office Action of November 24, 2003

CISCO-0193

REMARKS

Claims 44 and 63-74 are currently pending with no claim being allowed. Claims 44, 63, and 64 are independent claims.

Claims 13-24, 40-43, and 45-60 have been newly canceled, without prejudice.

New claims 63-74 have been newly added and particularly point out and distinctly claim subject matter regarded as the invention.

The 35 U.S.C. § 103 Rejection

Claims 13-24, 40-43, and 45-60 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over the cited prior art. However, with this paper, these claims have been canceled thus rendering the rejections moot with respect to these claims.

Claim 44 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Madany* (US 5,922,050) and *Beard* (US 6,067,577) in view of *Gish* (US 5,768,510) in further view of *Nakagawa et al.* (US 5,835,911). This rejection is respectfully traversed.

Initially, two points of correction should be made with respect to the rejection. First, *Gish* is never cited in the body of the rejection and it is therefore assumed to be included in error. Second, the correct patent number for *Nakagawa* would appear to be 5,835,911 and not 5,832,911 as listed in the rejection.

Generally, the Office Action states that *Madany* discloses or suggests most of the claim elements and limitations, that *Beard* discloses or suggests embedding software, and that Nakagawa discloses or suggests updating software. However, the rejection over extends the respective teachings of the prior art without proper presentation or justification.

The primary offense is committed with respect to one word in *Madany*. In FIGS. 1 and 7, *Madany* discloses a network including two computers and multiple devices. The devices are

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described further with respect to FIGS. 2, 4, and 5. The computers are described further with

respect to FIGS. 3 and 6. Generally, the devices and computers are described independently of

one another. The computer/device dichotomy is important to *Madany* as this is how he keeps the

overall system cost down. The computers do substantially all of the processing while the devices

do essentially none. The one and only exception to the dichotomy is on column 3, line 45 where

Madany lists a "computer" as being a possible example device. The inclusion of a "computer"

as a computer-type device in the list appears to be unusual as it is out of place with the other

examples that include light switches, televisions, radios, door locks, telephones, coffee makers,

security systems, and VCRs. The other example devices are dedicated devices and not general

purpose devices like the computer-type device might be. To further emphasize the unusualness

of including the computer-type device in the list is the fact that there is no further special

discussion by *Madany* of how a "computer" would operate as a device (16, 18, 20 of FIG. 1) and

not as a computer (10, 12 of FIG. 1) or as both a device and a computer in his system. One

would think that the general purpose nature of a computer-type device might require special

attention. For example, there is no explanation as to why a computer-type device that might be

able to perform its own processing would have another computer do the processing for it. This

does not fit well into the low cost model of *Madany*. No special attention is given to the

computer-type device by *Madany*. The disclosure is essentially one word long. Consequently,

one can not necessarily assume implicitly that the computer-type device operates any differently

than the other devices listed and described. The use by *Madany* of the term computer alone is

not grounds to make broad assumptions about what hardware or software a computer-type device

might include. If it is not taught by *Madany*, then any adaptations or assumptions by the Office

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Action must be properly cited and motivated to avoid over-extending the teachings. Open speculation is not enabled or allowed.

The primary discussion of the hardware of the device, whatever other name the device might go by, is given by *Madany* with respect to FIG. 2 on column 3, line 41 through column 4, line 42. For discussion purposes, the hardware shown in FIG. 2 of *Madany* will be referred to here as network control hardware. One will realize that the example devices disclosed by *Madany* already exist and that he is adding the network control hardware to the device so that it can perform a network control function. The existing device already has all of the original dedicated hardware necessary to perform its respective original dedicated functions. Nevertheless, *Madany* does not disclose how his network control hardware is to be integrated into the existing device. He describes the network control hardware in the abstract only. For example, there is no discussion of specialized hardware, such as speakers, microphones, buttons, switches, motors, and the like, that might be needed to perform the original dedicated functions of the device. Further, there is no discussion of the network control hardware replacing the existing original dedicated hardware, that is, the network control hardware must be in addition to the original dedicated hardware. Similarly, there is no discussion of the network control hardware performing any of the original dedicated functions. In fact, the only network control functions required by *Madany* are essentially that the device be able to (1) store/retrieve an applet, (2) communicate over the network, and (3) respond to control signals from the computer running the applet. The device is designed to still respond to control signals directly from the user. As presented by *Madany*, the network control hardware is very limited to keep costs down, that is, the addition of the network control hardware is not supposed to add substantially to the cost of the device. This is especially true, for example, when one is considering the cost of a

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light switch. There is no discussion by *Madany* of economies or synergies achieved by

combining or substituting hardware or functions. Consequently, one can not necessarily assume

implicitly that combinations or substitutions of hardware or functions would be possible or

supported. Further, except for some device specific special implementation details, any

proposed combinations or substitutions should work equally well for any of the listed devices as

Madany never distinguishes one from the other. Thus, the combinations or substitutions should

work equally well, for example, for the light switch and the computer-type device. Again, if it is

not taught by *Madany*, then any adaptations or assumptions by the Office Action must be

properly cited and motivated to avoid over-extending the teachings. Open speculation is not

enabled or allowed.

A careful review of *Madany* will demonstrate how limited the network control hardware

is disclosed to be. Of course it is recognized that the discussion is presented by *Madany* as being

a minimum standard, but anything beyond the minimum has to be justified and can not just be

implicitly assumed. *Madany* starts his discussion as follows:

> The device shown in FIG. 2 includes a processor 22, a read only memory (ROM) 24, and
> a random access memory (RAM) 26. Processor 22 may be an inexpensive processor
> capable of performing basic control functions and communication functions across the
> network [14 of FIG. 1]. Similarly, ROM 24 and RAM 26 may be relatively small to
> reduce the overall cost of the device. (Col. 3, lines 46-52)

Madany later reveals the following:

> ROM 24 also includes a program or applet containing information regarding the features
> of the device and instructions for providing control signals to the device. The applet
> contains all of the information necessary to describe, control, and communicate with the
> device. This applet cannot be executed by the processor 22 due to the inadequate
> processing resources of the processor. (Col. 4, lines 23-30)

Taken together, these quotations indicate that the device processor 22 of *Madany* is inexpensive

and low power. This is emphasized in the independent claims of *Madany* where the device is

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claimed as being "unable to execute said program [or applet] code". This description excludes a whole range of possible hardware that might be erroneously equated with the processor 22 based on FIG. 2 alone. As noted above the device only performs three basic functions. Whether this is to keep the processor simple or is because the processor is simple is not known. Nevertheless, one supports the other. To change one, one would probably have to change the other.

Similarly taken together, these quotations indicate that the ROM 24 is low cost and includes the applet. There is no discussion of altering or replacing the ROM 24 by *Madany*. The applet is static in the device. The applet is not running nor is it embedded in anything that is running. Recall that the processor cannot run the applet. Further, there is no disclosure that the device has the ability to perform functions such as embedding or extracting the applet. Recall that there are only three network control functions that the device performs. There is no discussion of multiple applets on a device whether new or old. Double citations to *Madany* by the Office Action does not turn one applet into two to support the rejection. There is no discussion of updating the applet by *Madany*. In fact, there is little motivation to do so because the device is a dedicated device such as a light switch. While one might change software on a general purpose device, one is not likely to change software on a dedicated device. One is more likely just to purchase a new dedicated device as the software tends to constitute most of the cost of the device for low-cost devices such as those listed by *Madany*. Citations by the Office Action to *Nakagawa* are therefore misplaced as the system disclosed by *Nakagawa* is directed to general purpose computers. Even more, software changes or the enablement of software changes would entail additional costs to the device which *Madany* is attempting to keep to a minimum. Consequently, the cited references do not disclose or suggest "modifying available remote device management services of a network device" as variously claimed.

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In view of the above, it is respectfully asserted that the claims are now in condition for allowance.
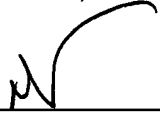
Request for Allowance

In view of the foregoing, reconsideration and an early allowance of this application are earnestly solicited.

If any matters remain which could be resolved in a telephone interview between the Examiner and the undersigned, the Examiner is invited to call the undersigned to expedite resolution of any such matters.

Respectfully submitted,
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Dated: January 21, 2004

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